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Anna Collyer
Chair
Australian Energy Market Commission

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Allowing AEMO to Accept Cash as Credit Support – Draft Rule Determination

Origin Energy Limited (Origin) welcomes the opportunity to provide comment on the Australian Energy Market Commission's (AEMC) *Allowing AEMO to Accept Cash as Credit Support – Draft Rule Determination*.

Origin generally supports the AEMC's draft Rule, which seeks to provide market participants with greater optionality and flexibility to meet their prudential requirements at lower cost. We do, however, propose several incremental enhancements to improve the operation of the draft Rule and minimise potential financial risks to AEMO, market participants and the broader market.

Cash as credit support

The AEMC is proposing to limit the amount of cash a participant can provide as credit support to \$5 million. Origin considers that this ceiling is unnecessarily restrictive, and a higher balance may be warranted, particularly to accommodate the credit obligations of larger retailers which find themselves subject to credit support restrictions. However, this higher threshold may increase the size of any potential claw-back in the event of insolvency.

The draft Rule seeks to mitigate and manage any claw-back risk through various measures of protection, including providing AEMO with a first ranking charge over cash. But the effectiveness of these measures is unclear, particularly where market participants have financing arrangements that place restrictions on the use of their assets, precluding the issuing of liens or assignment of priority indebtedness. To the extent that claw-back risk cannot be eliminated completely, Origin agrees that a legislative amendment to the Corporations Act would be a preferred approach to address residual uncertainties.

Surety bonds

Origin understands that AEMO has practical concerns as to use of surety bonds as a form of credit support, particularly in relation to the potential for higher participant costs and more widespread market risk. While any financial impact of the draft Rule on participants will likely be minimal, given the shortened settlement cycle reforms, it is important stakeholders maintain confidence in the prudential regime. The AEMC should address AEMO's concerns as part of its Final Rule Determination.

Non-APRA credit support providers

Institutions supervised by the Australian Prudential Regulation Authority (APRA) are required to meet robust standards for credit worthiness, and are subject to a rigorous ongoing regime of prudential supervision and compliance. This provides customers with a high level of assurance that those entities have sufficient financial means to meet their obligations.

However, in expanding the pool of credit support providers to include non-APRA supervised institutions, the settlement process may be exposed to a higher level of counterparty risk. It is therefore important that the financial capacity of individual foreign credit support providers and the quality of their jurisdictional oversight are subject to appropriate scrutiny. Given AEMO has no expertise in financial services regulation, it is not appropriate for that market body to be involved in the assessment and approval of international financial intermediaries.

If you wish to discuss any aspect of this submission further, please contact Steve Williams at steve.williams@originenergy.com.au.

Yours sincerely,

A handwritten signature in dark ink, reading "S Cole". The signature is written in a cursive, slightly stylized font.

Shaun Cole
Group Manager, Regulatory Policy